

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
EASTERN DIVISION  
No. 4:02-CR-60-5H  
No. 4:10-CV-195-H

NIGEL CLARKE,  
Petitioner,  
  
v.  
  
UNITED STATES OF AMERICA  
Respondent.

ORDER

On January 10, 2011, an order was entered dismissing petitioner's successive § 2255 motion without prejudice to his right to apply to the Fourth Circuit for leave to file the motion. Rule 11 of the Rules Governing Section 2255 Cases provides that "the district court must issue or deny a certificate of appealability when it enters a final order adverse to the applicant." Finding no substantial issue for appeal concerning the denial of a constitutional right, see 28 U.S.C. § 2253(c)(2), a certificate of appealability is DENIED.

This 7<sup>th</sup> day of February 2011.



MALCOLM J. HOWARD  
Senior United States District Judge

At Greenville, NC  
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